

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:02CR164
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
RAMON GARCIA-PENA,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's notice of appeal (Filing No. 595), the Clerk's memoranda regarding the untimeliness of the notice (Filing No. 597) and in forma pauperis status (Filing No. 596).

On December 28, 2010, the Court entered an order denying the Defendant's motion for copies (Filing No. 593). On January 20, 2011, the Defendant mailed his notice of appeal from his institution. The notice of appeal was filed on January 24, 2011. (Filing No. 595.)

Federal Appellate Rule of Procedure 4(b)(1)(A)(i) provides that, under the circumstances presented in this case, a criminal defendant's notice of appeal must be filed within 14 days of the entry of the judgment or order being appealed. Federal Appellate Rule of Procedure 4(b)(4) provides that the 14-day period may be extended by 30 days upon a finding of excusable neglect or good cause.

In this case, the notice of appeal is untimely. The Defendant has not shown excusable neglect or good cause. Accordingly, the Defendant will not be permitted to proceed in forma pauperis on appeal.

IT IS ORDERED:

1. The Defendant's notice of appeal (Filing No. 595) is untimely;

2. The Defendant may not proceed in forma pauperis on appeal; and
3. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 25th day of January, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge